

**ORDER WITHDRAWING**  
**Finding of No Significant Impact/Record of Decision (FONSI/ROD)**  
**dated February 23, 2006**  
**for the**  
**Trenton-Mercer Airport (TTN)**  
**Terminal Replacement and Other Projects in the Capital Improvement Program**

This Order withdraws the Finding of No Significant Impact/Record of Decision (FONSI/ROD) issued by the Federal Aviation Administration (FAA) on February 23, 2006. The FAA issued the FONSI/ROD subsequent to its independent review of the Environmental Assessment and its Appendices ("the EA") for the Trenton-Mercer County Airport (TTN) *Construction of a New Replacement Terminal and Other Projects in the TTN Capital Improvement Program* ("the project"). The EA was issued pursuant to the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality (CEQ) Regulations, and other applicable laws, FAA Orders, regulations and policies. The EA assessed the potential environmental impacts associated with the project, which is described in detail below. The FONSI/ROD was issued pursuant to 49 U.S.C. §40101 et.seq. (Part A) and 49 U.S.C. §47101 et.seq. (Part B) and constitutes a final order of the Administrator subject to review by the courts of appeals of the United States, pursuant to 49 U.S.C. §46110.

**Project Description**

The ROD allows for the construction of a new 44,000 square foot terminal building accommodating two aircraft gates to replace the existing two-gate terminal; expanded apron area; realignment of existing airport terminal access road; additional automobile parking spaces (proposed northern and southern parking areas); demolition and removal of the existing Tennis Center (for southern parking area); new snow removal equipment and storage building; and taxiway improvement plan (including relocation of Taxiway D, widening Taxiway B and F, extension of Taxiway F to Runway 24, extension of Taxiway J to Taxiway B, and the addition of connectors to Runway 6/24 and the Terminal Ramp, Taxiway E to H connector; and Taxiway G connector.)

**Background**

In early 1998, TTN requested FAA funding and Airport Layout Plan (ALP) approval for replacement of its terminal and other capital improvement plan (CIP) projects. In 1999, after considering and discussing this request with the airport sponsor, the FAA determined that an EA should be prepared to evaluate current conditions and analyze the impact of recent past and potential foreseeable future projects at TTN. On April 13, 2000, the airport sponsor submitted the draft EA to the FAA for review and comment.

During the preparation and review of the environmental analyses for this project, the purpose and need for the project changed. At various times during this process, TTN/Mercer County expressed interest in developing increased air carrier service at TTN. In fact, one of the alternatives analyzed during the NEPA process proposed a new, four-gate terminal facility. TTN described the purpose and need for this alternative, in part, as enabling it to accommodate the entry of a low fare/high frequency (LF/HF)<sup>1</sup> air carrier into the TTN

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<sup>1</sup> A low fare-high frequency (LF/HF) air carrier is an air carrier with operations similar to those of Southwest Airlines. Specifically, Section 1.5.2 of the EA defines a LF/HF air carrier operation as "a commercial air carrier

market. This terminal design alternative encompassed 64,000 square feet of terminal space and four aircraft gates. Thereafter, but still during the NEPA process, TTN advised the FAA that it was no longer interested in pursuing the four-gate alternative. Rather, it was interested in pursuing a two-gate replacement alternative, the project described above.<sup>2</sup> This change in purpose and need required major modifications to the draft EA documentation. The FAA advised TTN that, in the interest of transparency and full compliance with applicable laws and regulations, the four-gate terminal alternative and its analyses should be included in the EA. This alternative is referred to as the “Build Alternative 2”.<sup>3</sup>

The final draft Final EA was transmitted to the FAA on December 19, 2001. On March 11, 2002, the FAA provided the airport sponsor with its official comments and acknowledged that the sponsor was no longer interested in pursuing “Build Alternative 2”. Therefore, while the final draft EA did include the analysis for the “Build Alternative 2” project *and* the potential impacts of the entry and operation of a LF/HF air carrier, the County’s preferred alternative was the 44,000 square foot replacement terminal building accommodating two aircraft gates (also referred to as “Build Alternative 1”). This alternative is a “replacement terminal project” and reflects the fact that the airport sponsor no longer anticipated the entry of a LF/HF air carrier into the TTN market.<sup>4</sup>

The final draft EA was made available to the public via Public Notice on May 9, 2002 for a 60-day comment period including a public hearing held on June 12, 2002. The preliminary final EA, which included responses to comments, was transmitted to FAA on November 1, 2002. While undergoing FAA review, the County, via Public Notice on February 10, 2003, initiated an additional ten-day public comment period. On August 29, 2003, FAA received the final appendices to the preliminary final EA that included additional comments and responses. The FAA once again conducted an independent review of the NEPA documentation submitted for this project. The document still required additional information, modification, and coordination with other agencies.

Finally, in February, 2006, after all required information was obtained and agency coordination was completed, the FAA issued a FONSI/ROD approving the airport sponsor’s preferred alternative/“Build Alternative 1”. Based on the facts and circumstances at the time, as documented in the administrative record, the FONSI/ROD was accurate, well supported, and warranted. The FONSI/ROD made it clear that if the airport sponsor desired to pursue other projects for any purpose in the future, appropriate environmental review and documentation would be required.

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characterized as offering low fares with a high frequency of flights to popular business and leisure destinations....A LF/HF commercial carrier typically starts up a new market like TTN with a minimum of 10 flights per day. LF/HF commercial air carriers also typically exhibit relatively high load factors (percent of seats occupied) from the start due to the low fares and wide selection of destination choices.”

<sup>2</sup> Letter from Robert D. Prunetti, Mercer County Executive to Philip Brito, Manager, FAA New York Airports District Office, dated January 24, 2001

<sup>3</sup> The analyses of Build Alternative 2 revealed that [that] alternative would likely cause [sufficient] noise impacts that would require the preparation of an Environmental Impact Statement (EIS).


<sup>4</sup> To date, no LF/HF air carrier is operating at TTN and, to the FAA’s knowledge, no LF/HF air carrier has recently expressed interest in starting operations at TTN. Additionally, as of early 2006, several commercial service airlines have commenced and ceased operations, or reduced the number of operations into and out of TTN. These carriers include Shuttle America, Boston-Maine Airways (PanAm), Big Sky, and Comair (Delta).

### **Current Status and Changed Circumstances**

In making my decision to withdraw the February 23, 2006 FONSI/ROD, I have considered the changed status of the replacement terminal project and substantial new information that has been brought to my attention.

Specifically, it is the FAA's understanding that to date, the airport sponsor has taken no major steps to implement the project, nor does it have any plans to do so. By letter dated April 25, 2008, FAA requested Mercer County Counsel to provide information with respect to the implementation of the replacement terminal project. FAA specifically asked whether the County had initiated major steps to implement the replacement terminal project or, if no major steps had been taken, whether the County had any plans to begin work on the replacement terminal project prior to February 23, 2009. By letter dated April 29, 2008, Mercer County Counsel advised the FAA that it has no plans for the replacement terminal at this time. Additionally, to FAA's knowledge, no other large commercial air carrier has expressed interest to enter this market. Finally, pursuant to FAA Orders 5050.4B and 1050.1E,<sup>5</sup> an EA remains valid for three years in the absence of major steps to implement a project. Therefore, in approximately nine months (of which, only about five months could be considered "construction season" for the project), and in the absence of major steps to implement the project, the TTN EA would need to be reevaluated, at the very least to ensure that environmental analyses are accurate, valid, adequate, and current.

Based on my consideration of this substantial new information and the changed circumstances concerning the purpose and need for the replacement terminal project discussed above, as well as my consideration of FAA Orders cited above, I am withdrawing the February 23, 2006 FONSI/ROD. Accordingly, all FAA actions approved in the FONSI/ROD are also withdrawn. Should the airport sponsor wish to proceed with any component of the project approved in the now-withdrawn ROD, the sponsor must seek FAA approval for that component.

  
for Manny Weiss  
FAA Regional Administrator  
FAA Eastern Region

JUN 9 2008  
Date

This decision is taken pursuant to 49 U.S.C. §40101 et.seq. (Part A) and 49 U.S.C. §47101 et.seq. (Part B), and constitutes a final order of the Administrator which is subject to review by the courts of appeals of the United States in accordance with the provision of 49 U.S.C. §46110.

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<sup>5</sup> FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*, Paragraph 1401(c)(1) and FAA Order 1050.1E, *Environmental Impacts: Policy and Procedures*, Paragraph 402b.(1)